

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

BAILEY METALS, LLC

PLAINTIFF

V.

NO. 4:08-CV-00153-WAP-DAS

SUPERIOR BOAT WORKS,  
SCHILLING ENTERPRISES, LLC,  
AND FEDERAL INSURANCE CO.

DEFENDANTS

**ORDER DENYING MOTION WITHOUT PREJUDICE**

Plaintiff Bailey Metals has moved the Court for an Order directing Defendants to preserve the sunken barge which is the subject of this litigation until such time as Bailey Metals can obtain videotape evidence of the current condition of the sunken barge. The Court, being advised in the premises, finds that Bailey Metals' Motion is now moot. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Preservation of Evidence is denied as moot *without prejudice* against Plaintiff in the event Plaintiff determines that a request for such relief is necessary in the future.

SO ORDERED this 8<sup>th</sup> day of December, 2008.

/s/ David A. Sanders

UNITED STATES MAGISTRATE JUDGE